

AMENDED IN ASSEMBLY AUGUST 8, 2013

AMENDED IN ASSEMBLY JUNE 15, 2013

**SENATE BILL**

**No. 126**

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**Introduced by Senator Steinberg**

**(Coauthors: Senators Beall, Block, Correa, Gaines, Hueso, Leno,  
Lieu, Padilla, Pavley, and Wolk)**

(Coauthors: Assembly Members Frazier, Hall, and Pan)

January 22, 2013

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An act to amend Section 1374.73 of the Health and Safety Code, and to amend Sections 10144.51 and 10144.52 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 126, as amended, Steinberg. Health care coverage: pervasive developmental disorder or autism.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism, except as specified. A willful violation of these provisions with respect to health care service plans is a crime. These provisions are inoperative on July 1, 2014, and are repealed on January 1, 2015.

This bill would extend the operation of these provisions until ~~July 1, 2019, and would repeal these provisions on January 1, 2020~~ *January 1, 2017*. By extending the operation of provisions establishing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1374.73 of the Health and Safety Code  
2 is amended to read:

3 1374.73. (a) (1) Every health care service plan contract that  
4 provides hospital, medical, or surgical coverage shall also provide  
5 coverage for behavioral health treatment for pervasive  
6 developmental disorder or autism no later than July 1, 2012. The  
7 coverage shall be provided in the same manner and shall be subject  
8 to the same requirements as provided in Section 1374.72.

9 (2) Notwithstanding paragraph (1), as of the date that proposed  
10 final rulemaking for essential health benefits is issued, this section  
11 does not require any benefits to be provided that exceed the  
12 essential health benefits that all health plans will be required by  
13 federal regulations to provide under Section 1302(b) of the federal  
14 Patient Protection and Affordable Care Act (Public Law 111-148),  
15 as amended by the federal Health Care and Education  
16 Reconciliation Act of 2010 (Public Law 111-152).

17 (3) This section shall not affect services for which an individual  
18 is eligible pursuant to Division 4.5 (commencing with Section  
19 4500) of the Welfare and Institutions Code or Title 14  
20 (commencing with Section 95000) of the Government Code.

21 (4) This section shall not affect or reduce any obligation to  
22 provide services under an individualized education program, as  
23 defined in Section 56032 of the Education Code, or an individual  
24 service plan, as described in Section 5600.4 of the Welfare and  
25 Institutions Code, or under the federal Individuals with Disabilities  
26 Education Act (20 U.S.C. Sec. ~~1400~~, 1400 et seq.) and its  
27 implementing regulations.

28 (b) Every health care service plan subject to this section shall  
29 maintain an adequate network that includes qualified autism service  
30 providers who supervise and employ qualified autism service

professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health care service plan from selectively contracting with providers within these requirements.

(c) For the purposes of this section, the following definitions shall apply:

(1) “Behavioral health treatment” means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria:

(A) The treatment is prescribed by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of, or is developed by a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of, Division 2 of the Business and Professions Code.

(B) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised and employed by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service provider.

(C) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated. The treatment plan shall be reviewed no less than once every six months by the qualified autism service provider and modified whenever appropriate, and shall be consistent with Section 4686.2 of the Welfare and Institutions Code pursuant to which the qualified autism service provider does all of the following:

(i) Describes the patient’s behavioral health impairments or developmental challenges that are to be treated.

(ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan’s goal and objectives, and the frequency at which the patient’s progress is evaluated and reported.

1 (iii) Provides intervention plans that utilize evidence-based  
2 practices, with demonstrated clinical efficacy in treating pervasive  
3 developmental disorder or autism.

4 (iv) Discontinues intensive behavioral intervention services  
5 when the treatment goals and objectives are achieved or no longer  
6 appropriate.

7 (D) The treatment plan is not used for purposes of providing or  
8 for the reimbursement of respite, day care, or educational services  
9 and is not used to reimburse a parent for participating in the  
10 treatment program. The treatment plan shall be made available to  
11 the health care service plan upon request.

12 (2) “Pervasive developmental disorder or autism” shall have  
13 the same meaning and interpretation as used in Section 1374.72.

14 (3) “Qualified autism service provider” means either of the  
15 following:

16 (A) A person, entity, or group that is certified by a national  
17 entity, such as the Behavior Analyst Certification Board, that is  
18 accredited by the National Commission for Certifying Agencies,  
19 and who designs, supervises, or provides treatment for pervasive  
20 developmental disorder or autism, provided the services are within  
21 the experience and competence of the person, entity, or group that  
22 is nationally certified.

23 (B) A person licensed as a physician and surgeon, physical  
24 therapist, occupational therapist, psychologist, marriage and family  
25 therapist, educational psychologist, clinical social worker,  
26 professional clinical counselor, speech-language pathologist, or  
27 audiologist pursuant to Division 2 (commencing with Section 500)  
28 of the Business and Professions Code, who designs, supervises,  
29 or provides treatment for pervasive developmental disorder or  
30 autism, provided the services are within the experience and  
31 competence of the licensee.

32 (4) “Qualified autism service professional” means an individual  
33 who meets all of the following criteria:

34 (A) Provides behavioral health treatment.

35 (B) Is employed and supervised by a qualified autism service  
36 provider.

37 (C) Provides treatment pursuant to a treatment plan developed  
38 and approved by the qualified autism service provider.

39 (D) Is a behavioral service provider approved as a vendor by a  
40 California regional center to provide services as an Associate

1 Behavior Analyst, Behavior Analyst, Behavior Management  
2 Assistant, Behavior Management Consultant, or Behavior  
3 Management Program as defined in Section 54342 of Title 17 of  
4 the California Code of Regulations.

5 (E) Has training and experience in providing services for  
6 pervasive developmental disorder or autism pursuant to Division  
7 4.5 (commencing with Section 4500) of the Welfare and  
8 Institutions Code or Title 14 (commencing with Section 95000)  
9 of the Government Code.

10 (5) “Qualified autism service paraprofessional” means an  
11 unlicensed and uncertified individual who meets all of the  
12 following criteria:

13 (A) Is employed and supervised by a qualified autism service  
14 provider.

15 (B) Provides treatment and implements services pursuant to a  
16 treatment plan developed and approved by the qualified autism  
17 service provider.

18 (C) Meets the criteria set forth in the regulations adopted  
19 pursuant to Section 4686.3 of the Welfare and Institutions Code.

20 (D) Has adequate education, training, and experience, as  
21 certified by a qualified autism service provider.

22 (d) This section shall not apply to the following:

23 (1) A specialized health care service plan that does not deliver  
24 mental health or behavioral health services to enrollees.

25 (2) A health care service plan contract in the Medi-Cal program  
26 (Chapter 7 (commencing with Section 14000) of Part 3 of Division  
27 9 of the Welfare and Institutions Code).

28 (3) A health care service plan contract in the Healthy Families  
29 Program (Part 6.2 (commencing with Section 12693) of Division  
30 2 of the Insurance Code).

31 (4) A health care benefit plan or contract entered into with the  
32 Board of Administration of the Public Employees’ Retirement  
33 System pursuant to the Public Employees’ Medical and Hospital  
34 Care Act (Part 5 (commencing with Section 22750) of Division 5  
35 of Title 2 of the Government Code).

36 (e) Nothing in this section shall be construed to limit the  
37 obligation to provide services under Section 1374.72.

38 (f) As provided in Section 1374.72 and in paragraph (1) of  
39 subdivision (a), in the provision of benefits required by this section,  
40 a health care service plan may utilize case management, network

1 providers, utilization review techniques, prior authorization,  
2 copayments, or other cost sharing.

3 ~~(g) This section shall become inoperative on July 1, 2019, and,~~  
4 ~~as of January 1, 2020, is repealed, unless a later enacted statute,~~  
5 ~~that becomes operative on or before January 1, 2020, deletes or~~  
6 ~~extends the dates on which it becomes inoperative and is repealed.~~

7 *(g) This section shall remain in effect only until January 1, 2017,*  
8 *and as of that date is repealed, unless a later enacted statute, that*  
9 *is enacted before January 1, 2017, deletes or extends that date.*

10 SEC. 2. Section 10144.51 of the Insurance Code is amended  
11 to read:

12 10144.51. (a) (1) Every health insurance policy shall also  
13 provide coverage for behavioral health treatment for pervasive  
14 developmental disorder or autism no later than July 1, 2012. The  
15 coverage shall be provided in the same manner and shall be subject  
16 to the same requirements as provided in Section 10144.5.

17 (2) Notwithstanding paragraph (1), as of the date that proposed  
18 final rulemaking for essential health benefits is issued, this section  
19 does not require any benefits to be provided that exceed the  
20 essential health benefits that all health insurers will be required by  
21 federal regulations to provide under Section 1302(b) of the federal  
22 Patient Protection and Affordable Care Act (*Public Act (Public*  
23 *Law 111-148)*), as amended by the federal Health Care and  
24 Education Reconciliation Act of 2010 (*Public 2010 (Public Law*  
25 *111-152)*).

26 (3) This section shall not affect services for which an individual  
27 is eligible pursuant to Division 4.5 (commencing with Section  
28 4500) of the Welfare and Institutions Code or Title 14  
29 (commencing with Section 95000) of the Government Code.

30 (4) This section shall not affect or reduce any obligation to  
31 provide services under an individualized education program, as  
32 defined in Section 56032 of the Education Code, or an individual  
33 service plan, as described in Section 5600.4 of the Welfare and  
34 Institutions Code, or under the federal Individuals with Disabilities  
35 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing  
36 regulations.

37 (b) Pursuant to Article 6 (commencing with Section 2240) of  
38 Title 10 of the California Code of Regulations, every health insurer  
39 subject to this section shall maintain an adequate network that  
40 includes qualified autism service providers who supervise and

1 employ qualified autism service professionals or paraprofessionals  
2 who provide and administer behavioral health treatment. Nothing  
3 shall prevent a health insurer from selectively contracting with  
4 providers within these requirements.

5 (c) For the purposes of this section, the following definitions  
6 shall apply:

7 (1) “Behavioral health treatment” means professional services  
8 and treatment programs, including applied behavior analysis and  
9 evidence-based behavior intervention programs, that develop or  
10 restore, to the maximum extent practicable, the functioning of an  
11 individual with pervasive developmental disorder or autism, and  
12 that meet all of the following criteria:

13 (A) The treatment is prescribed by a physician and surgeon  
14 licensed pursuant to Chapter 5 (commencing with Section 2000)  
15 of, or is developed by a psychologist licensed pursuant to Chapter  
16 6.6 (commencing with Section 2900) of, Division 2 of the Business  
17 and Professions Code.

18 (B) The treatment is provided under a treatment plan prescribed  
19 by a qualified autism service provider and is administered by one  
20 of the following:

21 (i) A qualified autism service provider.

22 (ii) A qualified autism service professional supervised and  
23 employed by the qualified autism service provider.

24 (iii) A qualified autism service paraprofessional supervised and  
25 employed by a qualified autism service provider.

26 (C) The treatment plan has measurable goals over a specific  
27 timeline that is developed and approved by the qualified autism  
28 service provider for the specific patient being treated. The treatment  
29 plan shall be reviewed no less than once every six months by the  
30 qualified autism service provider and modified whenever  
31 appropriate, and shall be consistent with Section 4686.2 of the  
32 Welfare and Institutions Code pursuant to which the qualified  
33 autism service provider does all of the following:

34 (i) Describes the patient’s behavioral health impairments or  
35 developmental challenges that are to be treated.

36 (ii) Designs an intervention plan that includes the service type,  
37 number of hours, and parent participation needed to achieve the  
38 plan’s goal and objectives, and the frequency at which the patient’s  
39 progress is evaluated and reported.

1 (iii) Provides intervention plans that utilize evidence-based  
2 practices, with demonstrated clinical efficacy in treating pervasive  
3 developmental disorder or autism.

4 (iv) Discontinues intensive behavioral intervention services  
5 when the treatment goals and objectives are achieved or no longer  
6 appropriate.

7 (D) The treatment plan is not used for purposes of providing or  
8 for the reimbursement of respite, day care, or educational services  
9 and is not used to reimburse a parent for participating in the  
10 treatment program. The treatment plan shall be made available to  
11 the insurer upon request.

12 (2) “Pervasive developmental disorder or autism” shall have  
13 the same meaning and interpretation as used in Section 10144.5.

14 (3) “Qualified autism service provider” means either of the  
15 following:

16 (A) A person, entity, or group that is certified by a national  
17 entity, such as the Behavior Analyst Certification Board, that is  
18 accredited by the National Commission for Certifying Agencies,  
19 and who designs, supervises, or provides treatment for pervasive  
20 developmental disorder or autism, provided the services are within  
21 the experience and competence of the person, entity, or group that  
22 is nationally certified.

23 (B) A person licensed as a physician and surgeon, physical  
24 therapist, occupational therapist, psychologist, marriage and family  
25 therapist, educational psychologist, clinical social worker,  
26 professional clinical counselor, speech-language pathologist, or  
27 audiologist pursuant to Division 2 (commencing with Section 500)  
28 of the Business and Professions Code, who designs, supervises,  
29 or provides treatment for pervasive developmental disorder or  
30 autism, provided the services are within the experience and  
31 competence of the licensee.

32 (4) “Qualified autism service professional” means an individual  
33 who meets all of the following criteria:

34 (A) Provides behavioral health treatment.

35 (B) Is employed and supervised by a qualified autism service  
36 provider.

37 (C) Provides treatment pursuant to a treatment plan developed  
38 and approved by the qualified autism service provider.

39 (D) Is a behavioral service provider approved as a vendor by a  
40 California regional center to provide services as an Associate



1 Behavior Analyst, Behavior Analyst, Behavior Management  
2 Assistant, Behavior Management Consultant, or Behavior  
3 Management Program as defined in Section 54342 of Title 17 of  
4 the California Code of Regulations.

5 (E) Has training and experience in providing services for  
6 pervasive developmental disorder or autism pursuant to Division  
7 4.5 (commencing with Section 4500) of the Welfare and  
8 Institutions Code or Title 14 (commencing with Section 95000)  
9 of the Government Code.

10 (5) “Qualified autism service paraprofessional” means an  
11 unlicensed and uncertified individual who meets all of the  
12 following criteria:

13 (A) Is employed and supervised by a qualified autism service  
14 provider.

15 (B) Provides treatment and implements services pursuant to a  
16 treatment plan developed and approved by the qualified autism  
17 service provider.

18 (C) Meets the criteria set forth in the regulations adopted  
19 pursuant to Section 4686.3 of the Welfare and Institutions Code.

20 (D) Has adequate education, training, and experience, as  
21 certified by a qualified autism service provider.

22 (d) This section shall not apply to the following:

23 (1) A specialized health insurance policy that does not cover  
24 mental health or behavioral health services or an accident only,  
25 specified disease, hospital indemnity, or Medicare supplement  
26 policy.

27 (2) A health insurance policy in the Medi-Cal program (Chapter  
28 7 (commencing with Section 14000) of Part 3 of Division 9 of the  
29 Welfare and Institutions Code).

30 (3) A health insurance policy in the Healthy Families Program  
31 (Part 6.2 (commencing with Section 12693)).

32 (4) A health care benefit plan or policy entered into with the  
33 Board of Administration of the Public Employees’ Retirement  
34 System pursuant to the Public Employees’ Medical and Hospital  
35 Care Act (Part 5 (commencing with Section 22750) of Division 5  
36 of Title 2 of the Government Code).

37 (e) Nothing in this section shall be construed to limit the  
38 obligation to provide services under Section 10144.5.

39 (f) As provided in Section 10144.5 and in paragraph (1) of  
40 subdivision (a), in the provision of benefits required by this section,

1 a health insurer may utilize case management, network providers,  
2 utilization review techniques, prior authorization, copayments, or  
3 other cost sharing.

4 ~~(g) This section shall become inoperative on July 1, 2019, and,~~  
5 ~~as of January 1, 2020, is repealed, unless a later enacted statute,~~  
6 ~~that becomes operative on or before January 1, 2020, deletes or~~  
7 ~~extends the dates on which it becomes inoperative and is repealed.~~

8 *(g) This section shall remain in effect only until January 1, 2017,*  
9 *and as of that date is repealed, unless a later enacted statute, that*  
10 *is enacted before January 1, 2017, deletes or extends that date.*

11 SEC. 3. Section 10144.52 of the Insurance Code is amended  
12 to read:

13 10144.52. (a) For purposes of this part, the terms “provider,”  
14 “professional provider,” “network provider,” “mental health  
15 provider,” and “mental health professional” shall include the term  
16 “qualified autism service provider,” as defined in subdivision (c)  
17 of Section 10144.51.

18 ~~(b) This section shall become inoperative on July 1, 2019, and,~~  
19 ~~as of January 1, 2020, is repealed, unless a later enacted statute,~~  
20 ~~that becomes operative on or before January 1, 2020, deletes or~~  
21 ~~extends the dates on which it becomes inoperative and is repealed.~~

22 *(b) This section shall remain in effect only until January 1, 2017,*  
23 *and as of that date is repealed, unless a later enacted statute, that*  
24 *is enacted before January 1, 2017, deletes or extends that date.*

25 SEC. 4. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.